



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:04.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P (MD)No.6974 of 2020

and

W.M.P (MD)No.6401 of 2020

WEB COPY

K.Gunasekaran

.... Petitioner

Vs.

1.The Secretary to Government,
Revenue Department,
Fort St. George,
Secretariat,
Chennai.

2.The District Collector,
Madurai District,
Madurai.

3.Mr.K.Veluchamy

4.G.Senthil Kumari

5.S.Selvaraj

6.A.Prem Kishore

7.Moorthy

.... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the order passed by the second respondent in R.O.C.No.36118/2015/J4 dated 16.09.2019 and quash the same and consequently, direct the first respondent to accord sanction for prosecution towards prosecuting the respondents 3 to 7 on the strength of the petitioner's complaint dated 08.12.2018 within the time stipulated by this Court.

For Petitioner

: Mr.R.Anand

For R-1 & R-2

: Mr.M.Sakthi Kumar,
Government Advocate

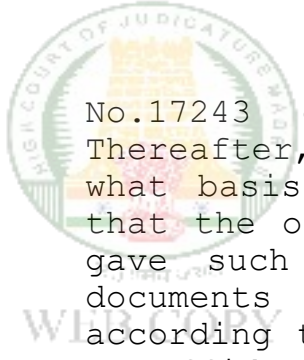
For R-3 to R-7

: No Appearance

ORDER

The writ petition has been filed challenging the order of the District Collector, Madurai District, rejecting the sanction to prosecute the respondents 3 to 7.

2. The main allegation made by the petitioner in the writ petition is that when the wife of the petitioner challenged the order of cancellation of assignment in W.P(MD)No.17243 of 2015, the private respondents filed an affidavit before this Court indicating that the petitioner has occupied the assigned land and constructed a building for commercial purposes. On such statement made, W.P(MD)



No.17243 of 2015 was dismissed by order dated 26.04.2016. Thereafter, the petitioner has made a query to the officials as to what basis, such an affidavit has been filed, wherein it appears that the official respondents replied to the R.T.I query that they gave such report on enquiry, but, they have not verified the documents with regard to the title of the property. Therefore, according to the petitioner, without verifying any document, filing an affidavit to the effect that the petitioner had constructed a commercial building, is a false statement. Therefore, they sought to be prosecuted under Section 166 I.P.C. Hence, his grievance is that he has sought the sanction, but the same has been rejected by the District Collector.

3. The learned counsel for the petitioner would contend that the sanctioning authority collected many other cases and not considered the petitioner's representation independently. He would further contend that the sanctioning authority, has not applied his mind in tune with Section 197 Cr.P.C., and therefore, the impugned rejection order is *per se* not legal and hence, the same is liable to be quashed.

4. Whereas, the learned Government Advocate appearing for the State would submit that the sanctioning authority has applied his mind and rejected the sanction. Therefore, the same cannot be challenged in this writ petition.

5. I have heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. A perusal of the impugned order dated 16.09.2019, would show that the sanctioning authority has not only passed orders in the petitioner's case, but also passed orders in respect of the case in W.P(MD)No.24427 of 2018, dated 12.12.2018 and W.P(MD)No.1153 of 2019 dated 23.01.2019 and reference was also made to that effect. In this regard, the sanctioning authority has considered the entire gamut of the proceedings filed in respect of the land which was originally assigned in favour of the petitioner's wife and later, it was cancelled. Circumstances under which the assignment was cancelled has been captured in the cancellation order and the impugned order of the District Collector, makes it very clear that though the property was originally assigned in favour of the wife of the petitioner, the petitioner has encroached upon 10 cents of land in the same area. Encroachment was removed by the Corporation and during inspection, they also found that pakka house along with compound wall constructed in the name of the petitioner was also found in Door No.53 of that area. The Revenue Authorities on enquiry and inspection, found that pakka building has been constructed over 10 cents apart from the assigned land. Such act is nothing but encroachment only. Merely because the answers given to the queries raised by the petitioner under the R.T.I Act did not satisfy the petitioner, as to the nature of the document verified by



the concerned officials, such answers cannot be construed that the entire affidavit filed by the officials is false. Therefore, they should be prosecuted.

7. It is relevant to note that the earlier writ petition filed by the petitioner's wife got dismissed as early as on 26.04.2016 and the same has been challenged and the same has reached finality. As the Revenue Officials have found that there was encroachment, after elaborate discussion, the sanction has not been accorded by the District Collector, this Court is of the view that the same cannot be interfered with for the whims and fancies of the petitioner. Therefore, the writ petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar (CA & MC)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

pm

To:

1.The Secretary to Government,
Revenue Department, Fort St. George,
Secretariat, Chennai.

2.The District Collector,
Madurai District,
Madurai.

+1 CC to M/s.R.ANAND, Advocate (SR-10422[F] dated 07/03/2022)

W. P (MD) No. 6974 of 2020

04.03.2022

SS/22.03.2022 : 3P/4C